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**SEP 22 2006**

**OFFICE OF PETITIONS**

In re Application of :  
Chen et al. :  
Application No. 10/005,193 : **ON PETITION**  
Filed: 4 December, 2001 :  
Atty Dckt No. 200302024-1 :

This is a decision on the petition filed on 8 September, 2006, filed under 37 CFR 1.47(b) which is being treated as a petition under 37 CFR 1.183<sup>1</sup> requesting waiver of the requirement of 37 CFR 1.63(a)(2) as to the full name of the second named inventor.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.183."

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioners have not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

There is no requirement for a showing under 37 CFR 1.47, as noted above. This application bears an original Declaration executed by joint inventor Murali, and thus, the provisions of 37 CFR 1.47

<sup>1</sup> Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

do not apply in this instance. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

Petitioners have not shown that diligent efforts were made to contact joint inventor Murali. Specifically, no correspondence was sent to Murali's last known address. Petitioners should send a letter to Murali's last known address asking him to verify his full name, and to sign a statement acknowledging his full name. A copy of the cover letter sent to Murali should be provided with any renewed petition. Additionally, in the event that the letter is returned as undeliverable, petitioners may show diligent efforts to locate Murali by providing a copy of the envelope showing that a letter sent to the last known address of the inventor was returned as undeliverable by the post office. Details of the efforts made to locate the inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details. Additionally, if the inventor no longer lives at the last known address, petitioners may show diligent efforts by use of e-mail, internet, or telephone searches to determine a current address for joint inventor Murali. If a more recent address is discovered, petitioners should send or give a copy of the correspondence to the inventor at that address.

If repeated attempts to contact joint inventor Murali are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

As the present petition requires treatment under 37 CFR 1.183 rather than 1.47, a petition fee of \$400.00 pursuant to 37 CFR 1.17(f) is due. Counsel's deposit account will be charged the additional \$200.00 for the petition under 37 CFR 1.183 as authorized in the present petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail:           Mail Stop Petition  
                  Commissioner for Patents  
                  P.O. Box 1450  
                  Alexandria, VA 22313-1450

By FAX:           (571) 273-8300  
                  Attn: Office of Petitions

By hand:            Customer Service Window  
                     Randolph Building  
                     401 Dulany Street  
                     Alexandria, VA 22314

Telephone inquiries related to this decision should be directed  
to the undersigned at 571-272-3231.



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Office of Petitions